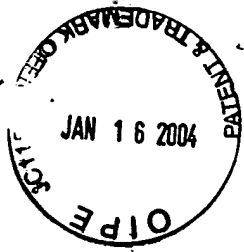


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.)	10/031,152
APPLICANT)	Heinrich LEONHARDT
FILED)	20 March 2002
EXAMINER)	Christopher J. Nichols
ART UNIT)	1647
FOR)	TISSUE REGENERATING AGENT

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

16 January 2003

AMENDMENT PURSUANT TO 37 CFR § 1.111

Sir:

This communication is responsive to the office action 17 September 2003.

Entry of the amendments and consideration of the claims is respectfully requested.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefore. Please charge the required fee to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any further insufficiency of fees, or credit any excess to Deposit Account No. 14-1263.

REMARKS

Claims 1-5 were pending in the application. In response to the recent office action, all claims have been canceled. New claims 10-13 have been added. The claims do not add new matter.

Examiner's comments are addressed below.

1. In paragraph 2, Examiner required addition of an Abstract. An abstract is submitted herewith, and is provided on a separate page.
2. The rejection of claims 1-5 for allegedly lacking an enabling specification is mooted by the cancellation of claims 1-5. In addition, the newly added claims 10-13 are limited to embodiments that Examiner stated were enabled. See office action, ¶13 [to ¶13].

It is requested that this rejection be withdrawn.

3. ¶14-16 is rendered moot by the amendments to the claims.
4. The anticipation of claims 1 and 2 by US '735 to O'Hare is moot in view of the amendment to the claims.
5. The rejections of canceled claims 1-4 (that correspond to new claims 10-11) are overcome as follows:

(a) The earliest filing date for Braetge, is 10 April 2002, and not 12 April 1999 [provisional application filing date]. It is noted that the Applicants have examined a copy of the provisional application and there is nowhere an enabling disclosure demonstrating the preparation of VP22 fusion proteins having SV40 T-antigen or viral cyclins. The only protein described and enabled is VP22-hTERT (VP22-human telomerase).

Thus, Braetge does not anticipate new claims 10-13.

In addition, Braetge discloses that his fusion protein functions in cell immortalization, which is not the same as inducing terminally differentiated cells to divide. As Examiner is likely to already be aware, immortalized cell lines almost always represent dedifferentiated or undifferentiated cell phenotypes. Thus, Braetge does not teach each claim limitation.

(b) Further, Applicants have submitted herewith,

[i] a certified copy of the German priority application having a filing date of 15 July 1999; and

[ii] a certified English translation of the German Priority application thus perfecting the claim for foreign priority.

In accordance with our earliest priority date, we effectively antedate Braetge and overcome the reference.

CONCLUSION

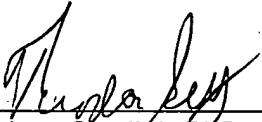
In brief, the Applicants' claims are distinct from Braetge's disclosures and cannot reasonably be viewed as anticipating the claims.

In addition, as will be demonstrated, Applicants' earliest priority date is earlier than Braetge's earliest prior art date.

Respectfully, the rejections should be withdrawn, and the claims allowed.

Respectfully Submitted,

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as an express mail in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on 16-Jan-2004 .
(Date)

Agata Glinska
Typed or printed name of transmittor

Signature Agata Glinska